

REMARKS

Claims 5 and 6 have been amended. The amendments to claims 5 and 6 are to correct grammatical errors and are not material to the invention.

35 U.S.C. §112 rejections

The rejection of claims 6 and 11 as being unclear as to whether a frame is required for each of the drive linkage and the second drive linkage is respectfully traversed. As can be seen from the language of claim 6 and claim 11, a frame (singular) is "pivotally coupled to the base and terminating in a journalled rod extending concurrently through the frame and drive arms of the drive linkage and the second drive linkage". Clearly, a single frame is called for, and a rod extends concurrently through the (single) frame and drive arms (plural) of the drive linkage and the second drive linkage. Each of the drive linkage and the second drive linkage has a drive arm as brought into the claim by the phrase "drive arms of the drive linkage and the second drive linkage". Applicant fails to see the ambiguity that would lead one to question whether two or more frames are claimed. Applicant respectfully requests withdrawal of this rejection.

35 U.S.C. §102 (b) rejections

The rejection of claims 1 under 35 U.S.C. §102(b) as being anticipated by Dunham (US 2,616,578) is respectfully traversed.

Referring to paragraph 5 of the Office Action, Examiner states that Dunham discloses a vehicle loader mechanism 5, 13 comprising a base 14, lift mechanisms 23, 56, and drive linkage is coupled between a base 14 and lift mechanism 23, 56. Additionally, Examiner states that a leveling linkage is coupled between base 14 and lift mechanism 23, 56. Applicant must respectfully disagree with this interpretation of Dunham for the following reasons:

1.) Base 14 is not taught as or used as a base. Specifically, base 14 as taught by Dunham is an elevating carriage 14 guided for vertical movement (column 3, lines 5-7). This element is clearly not a base, but a portion of a lift mechanism consisting of a mast 8 which carries elevating carriage 14. Further support for the contention that elevating carriage 14 is the essential part of the lift mechanism and not a base, is the statement that "[t]he pusher mechanism, indicated generally at 13, is suitably mounted on a load supporting frame 14 which, as noted, is mounted for vertical movement relative to the mast 8"

(column 3, lines 11-14). This is clear language indicating that frame 14 is not a base, but rather the moving portion of a lift mechanism.

2.) Elements 23, 56, interpreted as the lift mechanism by the Examiner, are not a lift mechanism and cannot be used as such. Dunham teaches loader engaging forks 23 as part of a lift mechanism including frame 14 (column 3, lines 14 through 18). Element 56 is clearly not a part of a lift mechanism, instead it is a load engaging rack 56 carried by the lift mechanism.

With the preceding teachings of Dunham in mind, claim 1 is neither taught nor suggested thereby. Claim 1 specifically claims a base mountable on a cargo deck of a vehicle, and a lift mechanism movable between a lowered position and a raised position. A drive linkage and a leveling linkage are each coupled between the base and the lift mechanism.

The "base 14" of Dunham is not and cannot function as a base mountable on a cargo deck for the fact that it is not a base but an elevating carriage specifically taught as being raised and lowered on a mast 8. Therefore, "base 14" cannot function as a base as claimed, but rather is an elevating carriage 14 which acts as a lifting mechanism. Thus, a base as claimed in claim 1 has not been taught by Dunham

Elements 23 and 56 of Dunham cannot be the lift mechanism since elevating carriage 14 is the lifting portion of the lift mechanism. Element 23 is actually the forks of a lifting mechanism. The linkages of Dunham extend between elevating carriage 14 and load engaging rack 56. Thus, it can clearly be seen that a dragging element (load engaging rack 56) is coupled to elevating carriage 14 by linkages allowing extension and retraction thereof. Thus, a drive linkage coupled between the base and the lift mechanism and a leveling linkage coupled between the base and the lift mechanism are not taught by Dunham since Dunham teaches linkages coupled between a lifting mechanism and a dragging mechanism.

In summary, Dunham teaches a lift mechanism consisting of an elevating carriage 14 having forks 23 extending therefrom and raised and lowered on a mast 8. This lift mechanism carries a rack member 56 which is extendable and retractable by linkages. As specifically stated in column 3, lines 11-14 "[t]he pusher mechanism, indicated generally at 13, is suitably mounted on a load supporting frame 14 which, as noted, is mounted for vertical movement relative to the mast 8." This sentence alone indicates that frame 14 is a lifting mechanism which carries a pusher mechanism 13 consisting of linkages and load engaging rack 56. It is therefore impossible for Dunham to teach linkages coupling a

base and a lift mechanism as claimed in claim 1, since it specifically teaches linkages coupling a lifting mechanism and a load engaging rack. Since each and every element of claim 1 has not been taught or suggested by Dunham, there can be no anticipation. Withdrawal of the rejection is respectfully requested.

Referring to paragraph 6 of the Office Action, claim 2 is not anticipated for the same reasons as claim 1 and further because Dunham does not teach a drive linkage including a drive link pivotally coupled to the base and a drive arm pivotally coupled to the drive link and the lift mechanism. Instead, Dunham teaches a linkage coupled between the lift mechanism and a load engaging rack 56. Withdrawal the rejection of claim 2 is respectfully requested.

Referring to paragraph 7 of the Office Action, claim 3 is not anticipated by Dunham for the same reasons as claims 1 and 2, and further because claim 3 specifically claims a frame pivotally coupled to the base and terminating in an end. A rod is journal concurrently through the drive arm of the drive linkage in the end of the frame. Examiner fails to indicate any teaching of either a frame or a rod as claimed in claim 3, and therefore claim 3 cannot be said to be anticipated by Dunham. Withdrawal of the rejection is respectfully requested.

Referring to paragraph 8 of the Office Action, claim 4 is not anticipated by Dunham for the same reasons as claims 1-3, and further because claim 4 claims a leveling linkage including a stop link pivotally coupled to the rod. Examiner fails to indicate any teaching of a rod, journaled through the end of a frame, to which a stop link is pivotally coupled. Instead, Examiner states that a rod 39 which is carried by base 14 is coupled to various elements. Even if everything else is true, which it is not, the fact that rod 39 extends through base 14 prohibits it from also extending through a frame which, according to claim 3 of the present invention, is pivotally coupled to the base. Withdrawal of the rejection is respectfully requested.

Referring to paragraph 9 of the Office Action, claim 5 is not anticipated by Dunham for the same reasons as claim 1. Withdrawal the rejection is respectfully requested.

Referring to paragraph 10 of the Office Action, claim 6 is not anticipated by Dunham for the same reasons as claims 1, and 5, and further because Examiner states that a frame 26, 95 is pivotally coupled to base 14 and terminates in a journal rod 39 and linkages of a drive linkage. This is most assuredly not the case. The "frame 26" is actually part of the lift mechanism, specifically part of elevating carriage 14. With reference to column 3, lines 26-28,

"[t]he load supporting frame 14 is further defined by a pair of vertically extending frame or support members 26". This clearly describes support members 26 as being elements of load supporting frame 14 and therefore, if the Examiner's interpretation is followed, part of base 14. In view of this description, support members 26 cannot be the frame element as claimed in claim 6, since it is actually the base, according to the Examiner, and part of the lift mechanism as taught by Dunham. Withdrawal of the rejection is respectfully requested.

Referring to paragraph 11 of the Office Action, claim 7 is not anticipated by Dunham for the same reasons as claims 1, 5, and 6. Withdrawal of the rejection is respectfully requested.

Referring to paragraph 12 of the Office Action, claim 8 is not anticipated by Dunham for the same reasons as claim 1, and further because claim 8 claims the lift mechanism enabled with the drive linkage in the retracted configuration and the extended configuration and disabled with the drive linkage in between these configurations. The Examiner's rejection simply states that Dunham discloses the lift mechanism enabled with a drive linkage and a lift mechanism disabled with a drive linkage. First, applicant disputes the assertion that the drive linkages have any effect on the lift mechanism of Dunham and can find no

support in the Examiner's rejection or the teachings of Dunham for this assertion. Second, applicant fails to see how this teaches the limitations of claim 8 even if it were the case.

Referring to paragraph 13 of the Office Action, claim 11 is not anticipated by Dunham for the same reasons as claims 1, 5, 6. Specifically, and to paraphrase the previously presented arguments, Dunham teaches a lifting mechanism carrying a pusher mechanism. The lifting mechanism is essentially frame 14 and forks 23, and the pusher mechanism is the linkages and load engaging rack 56. Thus, the linkages couple a lifting mechanism and a load engaging rack 56, not a base and a lifting mechanism as claimed in claim 11. Additionally, claim 11 claims a frame pivotally coupled to the base and terminating in a journal rod. Dunham does not teach a frame as claimed in claim 11, element 26, stated as being a frame by the Examiner, is actually an element of frame 14 which the Examiner has suggested is a base. Thus, elements 26 are sub-elements of frame 14 and can not be pivotally coupled thereto. Additionally rod 39 of Dunham extends through elements 26 of frame 14 which would correspond to the rod of the present invention as claimed in claim 11 extending through the base and the frame which is clearly impossible according to the specification and as the claim is written. Since each and every element of claim 11 has not been taught or suggested

by Dunham, there can be no anticipation. Withdrawal of the rejection is respectfully requested.

Also, claim 11 claims a base mounted on a cargo deck of a vehicle. The vehicle taught by Dunham does not have a cargo deck and therefore cannot support a base. If frame 14 is considered the base, as the Examiner is doing, is carried by a mast 18 for upward and downward movement. Mast 18 is itself not mounted to a cargo deck of a vehicle, but rather mounted directly to the front in a vertical manner. There is no deck taught by Dunham.

Referring to paragraph 14 of the Office Action, claim 12 is not anticipated by Dunham for the same reasons as claims 11 and 4. Withdrawal of the rejection is respectfully requested.

Referring to paragraph 15 of the Office Action, claim 13 is not anticipated by Dunham for the same reasons as claims 11 and 8. Withdrawal of the rejection is respectfully requested.

Referring to paragraph 16 of the Office Action, claim 13 is not anticipated by Dunham for the same reasons as claims 1-7, and 11-12. Withdrawal of the rejection is respectfully requested.

Referring to paragraph 17 of the Office Action, claim 17 is not anticipated by Dunham for the same reasons as claims 1, 8 11, 13, and 16. Withdrawal of the rejection is respectfully requested.

35 U.S.C. §103(a) rejections

The rejection of claims 9, 14, and 18 under 35 U.S.C. §103(a) as being unpatentable over Dunham in view of Olson (US 4,274,794) is respectfully traversed. The limitations of claims 9, 14, and 18 are not taught or suggested by Dunham for the reasons discussed with respect to claims 1-8, 11 to 13, and 16-17, respectively, and Olson does not teach these deficiencies. Withdrawal of the rejection is respectfully requested.

The rejection of claims 10, 15, and 19 under 35 U.S.C. §103(a) as being unpatentable over Dunham in view of Poindexter (US 5,651,657) is respectfully traversed. The limitations of claims 9, 14, and 18 are not taught or suggested by Dunham for the reasons discussed with respect to claims 1-8, 11 to 13, and 16-17, respectively, and Olson does not teach these deficiencies. Furthermore, there is no structure in Dunham on which tracks could be used to prevent movement of the base and any such modification would render

them inoperable for its intended purpose. Withdrawal of the rejection is respectfully requested.

In view of the foregoing, it is submitted that each of the claims is in condition for allowance. Withdrawal of the rejections and allowance of the claims is respectfully requested. Should there be any questions or remaining issues, Examiner is cordially invited to telephone the undersigned attorney for a speedy resolution.

Respectfully requested,



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